

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY
COURT NO. 16**

CIVIL ACTION NO: JP16-18-003673

NADINE ADELE VS RENEE CLIFTON ET AL

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

The Court feels obligated to begin with a sincere apology to the parties for the length of time this decision has taken to issue. While the Court is not aware of any prejudice the delay may have brought to this matter, we do not like to have such matters linger any longer than necessary.

Procedural Posture

Plaintiff brought this action on June 6, 2018, seeking possession of a rental unit and damages for unlawful ouster. Trial was scheduled, but, subsequent to a motion to dismiss, the Court converted that trial date to a motion hearing. The Court held an initial hearing on defendants' motion to dismiss on July 26, 2018 and reserved decision. A decision issued on August 24, 2018, granting defendant's motion.

Plaintiff filed for a timely appeal and the Court scheduled this case for a three judge panel on September 25, 2018. Chief Magistrate Davis, Deputy Chief Magistrate Hutchison and Judge Wilson heard the appeal. At that hearing, counsel for the Defendants renewed the motion to dismiss for lack of subject matter jurisdiction, claiming that a Family Court stipulated agreement was controlling. The Court, after hearing the arguments of counsel, recessed and deliberated before returning to the bench and announcing its decision on the motion in open court. The Court denied the motion, explaining its rationale. Trial followed; this is the Court's decision after trial. For the reasons stated below, the Court finds that there was an unlawful ouster of Plaintiff. The Court awards damages commensurate with that decision but declines to grant possession to the Plaintiff.

Facts

Nadine Adele and Renee Clifton are sisters. The Cliftons own the house in which Ms. Adele's and Mrs. Clifton's mother lived. Their mother was in failing health, requiring significant care. Much of that was accomplished by in-home health care workers, but family members also often stayed at the home to assist in her care. Ms. Adele, in particular, would stay for extended periods of time to assist her mother. Ms. Adele never lived in the home as her primary abode, but used the home for long stretches and conducted business in the property. She also changed her residence and vehicle registrations to that address. She shares a home in Iowa with her husband.

The sisters have apparently had, over the years, a contentious relationship. According to the testimony of Renee Clifton, the execution of the lease in 2012 that is subject of this case was an effort to reduce family tension in some ways. It did not help. After the death of their mother in 2017, Ms. Adele continued to use the property. In October of that year, at a point when Ms. Adele was coming to Delaware, the Cliftons changed the locks on the house in an attempt to block Ms. Adele's access to the property. The situation escalated until the sisters filed cross-petitions for protection from abuse in late October. At a November 7th Family Court hearing on those petitions the parties reached an agreement, which was subsequently converted into an order of the Court. The defendants claimed in their pre-trial motion to dismiss that the agreement was controlling as to the issue of possession and should not be disturbed. The Court denied the motion, as the agreement was internally

inconsistent on the treatment of possession and for the fact that the Family Court has no jurisdiction to determine the issue of ultimate possession.

Mrs. Clifton testified that the lease as never intended to create a landlord/tenant relationship but was intended to control the family dynamics. Testimony at trial revealed that Mr. Clifton was unaware of the existence of the lease until this matter came to a head last year. The lease is an otherwise unremarkable residential landlord-tenant agreement, with no reference to the underlying purpose to which Mrs. Clifton testified. Ms. Adele and her brother are listed as tenants. Ms. Adele claims to have paid rent to Mrs. Clifton in cash and some checks, which Mrs. Clifton denies. This action does not include a counterclaim for a failure to pay rent.

The defense presented a number of witnesses to support the notion that this was not a typical landlord-tenant relationship. Both a neighbor and a caregiver for the mother of Mrs. Clifton and Ms. Adele testified that the mother lived in the house along with her son. Ms. Adele and Mrs. Clifton were frequent visitors, with Ms. Adele staying more frequently and for longer periods, but neither had any indication that Ms. Adele was a "tenant" in the common understanding. Neither witness was aware of a lease.

Discussion

The defense in this case asks the Court to consider the intent of the parties in creating this lease. They believe that the Court should overlook the clear language of the contract to delve into this contentious relationship between sisters to understand what they really meant to accomplish with this transaction. When presented with the limitations of the parole evidence rule by the Court, the defense simply brushed it off. The Court cannot take such a cavalier position with regard to well settled contract law. A deal is a deal, unless that deal breaches some public policy, such as it being made under duress, mistake of the parties, etc.¹ The defense has presented no such evidence here.

While the Court realizes that these may be somewhat unsophisticated parties with regard to the niceties of contract formation, they are certainly astute enough to appreciate the fact that if they want to accomplish a goal with a contract, the contract needs to spell it out. If the parties intended this lease to only be effective for the life of the mother or to be for a particular space in the house for the purpose of giving care to their mother, the sisters could easily have written that into the contract. They did not. Instead they fully executed a standard lease contract. For these reasons, the Court is obligated to rule that the lease is the governing document for the relationship between the parties before it.

The fact that Mr. Clifton was not aware of the contract between the sisters does not defeat this lease either. It is well settled law that one owner of property is entitled to the full use of that property and may encumber it without the knowledge of co-owners.² Further, the landlord tenant code provides that any person appropriately situated may hold themselves out as a landlord.³ Further the code states that the lack of one owner's signature on a lease does not invalidate the document.⁴ Mr. Clifton may have some claim that his wife should indemnify him in this matter, but his non-participation in the process does not absolve him of liability as an owner in this situation.

The Court finds that, because there is a contract and because the facts presented - mostly without contest from the defense - constitute an unlawful ouster, the plaintiff is entitled to treble damages for the period of her ouster.⁵ The only evidence presented at trial with regard to these damages was for hotel stays while in Delaware immediately following the ouster. Plaintiff showed evidence of stays that totaled \$2102.62. Plaintiff also claims for the use of her husband's loyalty points for one of the hotels, but she was unable to show this was her direct cost and her husband is not party to this matter. Further, the Court has previously ruled that

¹The parole evidence rule bars the introduction of prior or contemporaneous oral understandings that vary or contradict the written terms of a contract. Parole evidence is admissible only under 2 exceptions: when the contract language is ambiguous and when the contract is the product of fraud or misrepresentation. Testimony provided in this instance raised neither of these exceptions. Carrow v. Arnold, 2006 WL 3289582, at *4 (Del. Ch. Oct. 31, 2006), aff'd, 933 A.2d 1249 (Del. 2007).

² See In re Estate of Gedling, 2000 WL 567879, at *1 (Del. Ch. Feb. 29, 2000).

³ 25 Del. C. §5141(15)

⁴ 25 Del. C. §5110.

⁵ 25 Del. C. §5313.

the agreement reached in Family Court contemplated at least a thirty-day window in which plaintiff would not be in possession. For that reason, the damages presented for the period after November 7, 2017 are inapplicable. The Court will award treble damages from the date of ouster to the date of the agreement. As such, the Court awards the Plaintiff a judgment in the amount of \$1,567.68, inclusive of the treble damages award.

This leaves the question of possession. The statute regarding unlawful ouster states that a tenant may seek possession⁶, and Plaintiff has done so in this instance. It is more generally within the purview of the Court to "fully determine the rights of the parties."⁷ This has been interpreted to mean that the Court, in considering the issue of possession, has equitable powers.⁸ Here the Court finds that the equities of the case weigh heavily against the Plaintiff regaining possession. This is not her primary place of abode. While the contract did not state it, Plaintiff's own testimony showed that she held this property for the benefit of her mother. While she conducted some business in this location, it was clear from the type of work, it could be conducted nearly anywhere and is not tied to this property. Since her mother is no longer living, her connection to Delaware is limited.

Further, these parties have shown themselves to be overly litigious as a result of their damaged relationship. This is the fourth proceeding in this Court and there was significant action in Family Court surrounding the same set of facts. Were the Court to award possession to the Plaintiff, it would only be inviting additional litigation. Defendants may, at any time, provide appropriate notice to the Plaintiff to terminate the month-to-month tenancy. This Court has no doubt that that would result in additional protracted litigation. The Court finds it necessary and appropriate to end this relationship now. For those reasons, the Court orders that possession will remain with the Defendants.

Judgment

The Court finds in favor of the Plaintiff with regard to the issue of unlawful ouster and awards treble damages in the amount of \$1,567.68 plus court costs. The Court finds in favor of the Defendants with regard to the issue of possession.

IT IS SO ORDERED 21st day of November, 2018

/s/ Judge Alan Davis (SEAL)
Judge Alan Davis

Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

⁶ 25 Del. C. §5313.

⁷ 25 Del. C. §5103(a) states that the Court, "...shall regulate and determine all legal rights, remedies, and obligations of the parties and beneficiaries of any rental agreement of a rental unit within this State."

⁸ See Cont'l Coach Crafters Co. v. Fitzwater, 415 A.2d 785, 791 (Del. Super. Ct. 1980).